

United States Senate

WASHINGTON, DC 20510

September 17, 2004

The Honorable Michael O. Leavitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Leavitt:

On June 8th, 2004, we received your response to our letter of April 14th, 2004, requesting information on the United States Environmental Protection Agency's (EPA) plans for reviewing California's request for a waiver from the Clean Air Act oxygenate requirement. Your response provides scant information, leaving most of our questions unanswered and raising additional questions.

As you know, the California Air Resources Board requested this waiver in 1999. In 2001, EPA denied California's request. California sued EPA, arguing that it did not properly weigh the effect of the proposed waiver on air pollution. The United States Court of Appeals for the Ninth Circuit agreed with California, vacated the order and remanded it for review in July of 2003. EPA petitioned for a rehearing, which was denied on October 30, 2003. EPA must now reconsider California's request for a waiver. An expeditious review of California's request for a waiver is the only responsible course of action.

In April, and previously, we requested information on the timing and details of EPA's reconsideration of California's request. It is unclear to us why, after ten months, EPA has been unable or unwilling to provide a timeline and details on its plans for reconsideration of California's petition.

We again request that you provide the following information.

- Please provide a timeline and the steps EPA will undertake in its reconsideration of California's request. While your letter states that EPA will be making a decision within the next few months, you did not provide either a timeline or the steps EPA will take in its reconsideration.
- In addition, we requested that you detail the information that EPA will be reviewing in making its determination and provide us with copies of all documents. In your response, you provided us what appears to be a partial list of items in the docket for this action (A-2000-10), and no documents. Are we to understand that you will only be reviewing the information in the lists provided to us, or will you re-review all materials in the docket? Again, please detail the information that EPA will be reviewing in making its determination and provide us with copies of all documents.

- Finally, we asked that you provide us with a list of the offices and personnel that will be undertaking the review, and their respective responsibilities, including offices not located within EPA. This information was not provided.

This waiver will improve air quality in California and may help alleviate the recent soaring gas prices that Californians are experiencing. Given the importance of these issues and that this is a repeat request, we ask for a response no later than Thursday, September 30, 2004.

Sincerely,



Barbara Boxer
United States Senator



Dianne Feinstein
United States Senator